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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|--------------------|
| 10/662,446 | 09/16/2003 | Gregor Haab | 117193 | 9829 |
| 25944 | 7590 | 07/28/2004 | | |
| OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320 | | | | EXAMINER |
| | | | | STRIMBU, GREGORY J |
| ART UNIT | | PAPER NUMBER | | |
| | | 3634 | | |

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/662,446 | HAAB ET AL. |
| | Examiner | Art Unit |
| | Gregory J. Strimbu | 3634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) 7-12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 September 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/16/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Drawings

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the cross sectional shading for the elastic element in figures 3-6 should be amended to show that the elastic element comprises an elastic material in accordance with MPEP 608.02. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct

any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the legal phraseology such as "means" on lines 12 and 20 should be avoided and because it is too long. On lines 13-14, "a third component" is confusing since it is unclear if the applicant is referring to the third component set forth above or is attempting to set forth another third component in addition to the one set forth above. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in

upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because it is unclear what is meant by the recitations "Sh_A". For example see line 27 of page 5.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the purpose of the connecting device.

Claim Objections

Claims 1-6 are objected to because each of the claims should begin with an article such as --A-- or --The-- to avoid confusion. Appropriate correction is required.

Claims 7-12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 7-12 not been further treated on the merits.

Claim Rejections - 35 USC § 112

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "fashion" on line 2 of claim 1 render the claims indefinite because they are relative terms whose meaning cannot be determined from the specification and cannot be determined by one with ordinary skill in the art. Recitations such as "an elastic element" on line 5 of claim 1 render the claims indefinite because it is unclear if the elastic element comprises the device or is merely a component of the device. Recitations such as "the first component" on line 8 of claim 1 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of a device or the combination of a device and the first element. The preamble of claim 1 implies the subcombination while the positive recitation of the first component on line 8 of claim 1 implies the combination. Recitations such as "means"

on line 11 of claim 1 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "or" on line 2 of claim 2 render the claims indefinite because it is unclear which one of the two non-equivalent alternatives the applicant is attempting to positively set forth. Recitations such as "the body" on line 3 of claim 3 render the claims indefinite because they lack antecedent basis. Recitations such as "material" on line 4 of claim 4 render the claims indefinite because it is unclear what element of the invention includes the material to which the applicant refers. Recitations such as "50 Sh_A" on line 2 of claim 5 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Recitations such as "preferably approximately 10 Sh_A to 30 Sh_A" on line 3 of claim 5 render the claims indefinite because it is unclear if approximately modifies only 10 Sh_A or both 10 Sh_A and 30 Sh_A and because a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the

feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "less than 50 Sh_A", and the claim also recites "preferably approximately 10 Sh_A to 30 Sh_A" which is the narrower statement of the range/limitation. Recitations such as "and/or" on line 2 of claim 6 render the claims indefinite because it is unclear what is meant by the term "I".

Claim Rejections - 35 USC § 103

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marinoni et al. in view of Weaver et al. Marinoni et al. discloses a device for connecting a first component 16 to a second component 36 in a positively locking but detachable fashion, and for sealing a joint region between the first component 16 and a third component 2 which is connected to the second component 36, characterized in that an element 46 is provided which has a groove 50 for receiving a securing rib 64 which is provided on the first component 16, a latching element 43 which can be connected in a positively locking fashion to the second component 36 by means of pressure force, and a sealing lip 58 which presses against the third component 2 after the latching element latches in. Marinoni et al. is silent concerning the element comprising an elastic material.

However, Weaver et al. discloses an elastic element comprising a firm base 15 and a compressible sealing element 16 wherein the base and the sealing element comprise one piece.

It would have been obvious to one of ordinary skill in the art to provide Marinoni et al. with a elastic element, as taught by Weaver et al., to reduce the cost of manufacturing the device.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marinoni et al. in view of Weaver et al. as applied to claims 1-4 above. Marinoni et al. in view of Weaver et al. is silent concerning the particular hardness of the elastic element.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the sealing lip with a hardness of less than 50 Shore A hardness and the other components of the elastic element with a hardness of greater than 50 Shore A hardness.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finke '566 and '492, Finke et al. '394 and '303, Miller, Tracy, DeBraal et al. are cited for disclosing a removable cover. Mueller et al., Nakajima et al.,

Anders et al., Miyamoto et al. and Nozaki et al. are cited for a seal comprising materials having different hardness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
July 23, 2004